

field technicians. *Id.* KPMG also noted Qwest's overall responsiveness in the testing process. ^{37/}

The other major EEL issue that KPMG's test addressed involved inconsistencies in DS1 EEL provisioning documentation. KPMG Seventh Response, Observation 3054 (May 10, 2002), at 1. KPMG found that Qwest had successfully corrected the inconsistencies and that the issue had been resolved. *Id.* at 55.

In summary, despite low commercial volumes, Qwest's policies and procedures for provisioning EELs, which have been honed through the OSS testing process, ensure that CLECs will have nondiscriminatory access to EELs as they begin to order them in greater volumes.

3. Checklist Item 3: Access to Poles, Ducts, Conduits, and Rights-of-Way

Section 271(c)(2)(B)(iii) of the Act requires a Section 271 applicant to comply with Section 224 of the Act, which requires that ILECs "provide . . . telecommunications carrier[s] with nondiscriminatory access to any pole, duct, conduit, or right-of-way [the ILEC] own[s] or control[s]." 47 U.S.C. §§ 271(c)(2)(B)(iii), 224(f)(1), (2). *See also Pennsylvania 271 Order*, App. C ¶ 47; *Texas 271 Order*, 15 FCC Rcd at 18478 ¶ 243 n.688 (*citing Local Competition First Report and Order*, 11 FCC Rcd at 16080-81 ¶¶ 1175-77). An ILEC may deny access only on a nondiscriminatory basis, and only due to "insufficient capacity" or for "reasons of safety, reliability and generally applicable engineering purposes." 47 U.S.C. § 224(f)(2). *See also Pennsylvania 271 Order*, App. C ¶ 47; *Texas 271 Order*, 15 FCC Rcd at 18478 ¶ 243 n.688 (*citing Local Competition First Report and Order*, 11 FCC Rcd at 16080-81 ¶¶ 1175-77).

^{37/} KPMG Exception Report, Exception 3104 (Dec. 26, 2001) (noting that "Qwest has continually provided updated and additional documents as testing activities have progressed").

In addition, the Act establishes a methodology by which the maximum just and reasonable rates ILECs may charge can be calculated. The FCC's rules mirror these requirements (*see* 47 C.F.R. § 1.1403(a) (access); *id.*, §§ 1.1409(e), 1.1417-1.1418 (charges)), and further require ILECs to (1) grant access (or issue a denial in writing stating the reasons therefor) within 45 days of a request (*id.*, § 1.1403(b)); (2) provide at least 60 days written notice prior to any increase in pole attachment rates, demand for removal of attachments, or modification of facilities other than for routine maintenance or to respond to emergencies (*id.* § 1.1403(c)); and (3) charge non-recurring facilities modification fees necessitated by pole attachments at cost, on a cost-causer-pays basis. *Local Competition First Report and Order*, 11 FCC Rcd at 16096 ¶ 1211.

Qwest makes all of its poles, ducts, conduits and rights-of-way available to competitors in the application states pursuant to Section 10.8 of its respective state SGATs, through individually-negotiated, state-approved interconnection agreements, and under a stand-alone agreement developed prior to enactment of the 1996 Act. Declaration of Thomas R. Freeberg, Access to Poles, Ducts, Conduits and Rights-of-Way ("Freeberg Access to Poles Decl."), Att. 5, App. A, at 8-9. The stand-alone agreement is available to any CLEC that seeks access to Qwest's poles, ducts, conduits or rights-of-way but does not wish to negotiate or opt into a comprehensive interconnection agreement with Qwest. *See id.*

Qwest takes several steps to ensure that CLECs have access in a nondiscriminatory manner to Qwest's poles, ducts, conduits and rights-of-way. Those steps include (1) providing access to records; (2) maintaining an explicit and easy-to-follow ordering and application process; (3) assisting prospective attachers throughout the ordering and

application process and/or in planning attachments; (4) allocating space to itself and competitors on a nondiscriminatory basis; and (5) promptly responding to requests for access. *Id.* at 10-11.

Qwest determines the availability of space in a non-discriminatory manner consistent with Section 224 of the Act and the FCC's orders and rules thereunder. *Id.* at 21. SGAT § 10.8.2.6. Specifically, Qwest assigns space on a first-come, first-served basis. Qwest records its own designations for space in the same databases used to record CLEC space designations. *Id.* In accordance with FCC rules, Qwest does not reserve space for itself on or in its facilities. *Id.*; *Local Competition First Report and Order* ¶ 1170. In short, Qwest does not favor itself over other carriers in provisioning access to poles, ducts, conduits, or rights-of-way. *Id.*; *see* SGAT § 10.8.2.

Qwest completes make-ready and modification work for competitors in materially the same manner that it completes such work for itself. Qwest ensures that the costs of modifications are allocated only to the parties that benefit from them. Qwest, however, removes old, inactive cables at no charge to CLECs. *Freeberg Access to Poles Decl.* at 24.

Qwest applies rates consistent with the Commission's formulas. As of February 8 and July 30, 2001, Qwest began implementing new rates, consistent with the FCC formulas adopted pursuant to Section 224(e) of the Act, for attachers that provide telecommunications service. In accordance with FCC rules, the rate for telecommunications attachers is being phased in through equal 20-percent increments over a five-year period. *Id.* at 24-25. Qwest provides at least 60 days written notice of rate changes and facilities modifications or alterations. *Id.* at 25. Qwest's charges for pole and conduit inquiries, field verifications, make-ready work and facilities modifications are based on the actual cost of that work. *Id.*

Qwest makes all of its poles, ducts, conduits and rights-of-way available to competitors in each of the application states. As of April 30, 2002, Qwest was providing access as follows: in Washington, eight CLECs occupied 58,674 feet of Qwest duct and four CLECs had attached to 463 Qwest poles; in Montana, one CLEC occupied 240 feet of Qwest duct and three CLECs had attached to 90 Qwest poles; in Utah, two CLECs occupied 93,230 feet of Qwest duct and three CLECs had attached to 37 Qwest poles; and, in Wyoming, one CLEC occupied 12,262 feet of Qwest duct and one CLEC had attached to 37 Qwest poles. *Id.* at 28, 33, 35-36. These quantities do not include carriers that have cable television provider status but also may be providing local telephone service. *Id.* In aggregate, space has been made available in 397,200 feet of Qwest conduit and on over 111,100 Qwest poles to all third-party carriers in Washington; in over 46,600 feet of Qwest conduit and on over 18,100 Qwest poles to all third-party carriers in Montana; in over 739,400 feet of Qwest conduit and on over 41,350 Qwest poles to all third-party carriers in Utah; and in over 44,000 feet of Qwest conduit and on over 11,000 Qwest poles to all third-party carriers in Wyoming. *Id.*

The FCC has an extensive pole attachment complaint process if CLECs are dissatisfied with Qwest's performance. *See* 47 U.S.C. §§ 1.1401 *et seq.* Qwest has not been the subject of any FCC pole attachment complaints.

4. Checklist Item 4: Loops

a) Unbundled Loops

Section 271(c)(2)(B)(iv) of the Act requires that a BOC wishing to offer in-region interLATA service provide "local loop transmission from the central office to the customer's premises, unbundled from local switching or other services." ^{38/} The loop unbundling

^{38/} 47 U.S.C. § 252(d)(3); *see also* *Arkansas/Missouri 271 Order*, App. D ¶ 48. In the *UNE Remand Order*, the FCC defined the local loop as "a transmission facility between a distribution

requirement applies to various types of loops, including 2-and 4-wire analog voice-grade loops, as well as 2- and 4-wire loops that are conditioned to transmit the digital signals needed to provide service such as ISDN, ADSL, HDSL, and DS1-level signals. *See Local Competition First Report and Order*, 11 FCC Rcd at 15691, ¶ 380; *UNE Remand Order*, 15 FCC Rcd at 3772-73, ¶¶ 166-67.

Qwest is providing commercial volumes of unbundled loops, and is doing so in a high-quality manner that satisfies all established performance metrics. Qwest provides unbundled loops to CLECs in Montana, Utah, Washington and Wyoming in a timely, nondiscriminatory manner, consistent with the requirements of the Act and the FCC's rules and orders. 47 U.S.C. § 271(c)(2)(B)(iv); *see also Arkansas/Missouri 271 Order*, 16 FCC Rcd at App. D ¶¶ 48-49; *UNE Remand Order*, 15 FCC Rcd at 3772-78 ¶¶ 166-79; 47 C.F.R. § 51.319(a)(1). Through its SGAT and negotiated, state-approved interconnection agreements, Qwest makes available to CLECs all types of loops identified by the FCC as part of the loop unbundling requirement, including voice-grade analog loops, xDSL-capable loops, and high-capacity loops. Declaration of William M. Campbell, Unbundled Loops ("Campbell Decl."), Att. 5, App. A at ¶¶ 12-26; *see also Local Competition First Report and Order*, 11 FCC Rcd at 15691 ¶ 380; *UNE Remand Order*, 15 FCC Rcd at 3772-73 ¶¶ 166-67. Qwest performs hot cuts for CLECs and provides CLECs with access to unbundled loops provisioned using integrated digital loop carrier ("IDLC") technology where technically feasible. Campbell Decl. at ¶¶ 43-46. In addition, Qwest conditions loops where necessary to allow CLECs to provide digital services.

frame (or its equivalent) in the incumbent LEC central office and the loop demarcation point at an end-user customer premises, including inside wire owned by the incumbent LEC. The local loop network element includes . . . dark fiber, attached electronics (except those electronics used for the provision of advanced services, such as Digital Subscriber Line Access Multiplexers),

Id. at ¶¶ 35-39. Qwest also gives CLECs nondiscriminatory access to pre-order loop make-up information. OSS Decl. at Sec. III(A)(2)(f). Qwest provides line sharing and line splitting, as well as subloops and network interface devices (“NIDs”). *See generally* Declaration of Karen A. Stewart, Line Sharing/Line Splitting (“Stewart Line Sharing Decl.”) and Declaration of Karen A. Stewart, Network Interface Devices and Subloops (“Stewart NIDs/Subloops Decl.”), both located at Att. 5, App. A.

Qwest’s procedures for providing unbundled loops have been rigorously examined in collaborative workshop processes conducted by the Facilitator as part of the Multistate process, by the State Authorities, and by other states in Qwest’s region. As a result, they reflect voluminous input from CLECs and State Authorities. Any CLEC concerns about Qwest’s unbundled loop policies and processes have been resolved either through consensus or by orders of the State Authorities. *Id.* at ¶¶ 115-21.

Qwest has provisioned substantial numbers of unbundled loops to CLECs in the application states. As of April 30, 2002, Qwest had in service 81,406 unbundled loops in those states. (This figure represents stand-alone loops only, not those provided as part of a UNE combination.) Specifically, in the states included in this Application, Qwest had in service 63,088 unbundled voice-grade analog loops, 15,609 xDSL-capable loops, and 2,709 high-capacity loops. *Id.* at ¶ 73. The volume of unbundled loops in service demonstrates that Qwest is provisioning loops to CLECs in a nondiscriminatory fashion.

The following section discusses Qwest’s commercial performance with respect to installation and repair of unbundled loops in the application states for the period February through May 2002. The discussion under each state is arranged according to the three main

and line conditioning.” *UNE Remand Order*, 15 FCC Rcd at 3772-78 ¶¶ 166-79; *see also*

categories of loops: analog, xDSL-capable, and high-capacity loops. These performance data show that Qwest has successfully and promptly installed and repaired all types of unbundled loops for CLECs.

(1) Montana Performance

As of April 30, 2002, Qwest had in service 2,772 unbundled stand-alone loops for seven CLECs in Montana. Specifically, Qwest had in service 1,625 unbundled voice-grade analog loops, 1,111 xDSL-capable loops, and 36 high-capacity loops. *Id.* at ¶ 87. Qwest's performance in provisioning and repairing these loops has been outstanding and is described in the following paragraphs.

Analog Loops – Installation. A large majority of the loops Qwest has in service for CLECs in Montana are analog loops, and Qwest consistently provisions them in a timely and nondiscriminatory fashion. Between February and May, Qwest met the negotiated performance benchmark for installation commitments met in every month. During the same period, the average installation interval for analog loops ordered by CLECs was below the negotiated benchmark in every month. As for new installation quality, Qwest achieved parity between wholesale and retail installation trouble rates in every month. In short, under the performance measurements that the Commission has relied on in its analysis of loop performance in prior 271 applications, Qwest did not record a single performance disparity for analog loop installation. Qwest's only performance disparity for analog loop installation between February and May was under the PID that measures delayed days for non-facility reasons, but even there the disparity was slight and occurred in only one month. *Id.* at ¶ 88.

Hot Cuts. In addition to installing new loops, Qwest converts existing customers to CLEC service via hot cuts. The vast majority (nearly 100%) of loops provisioned via hot cut are analog loops. Loops provisioned via hot cut are included in the performance measures discussed in the preceding paragraphs for installation commitments met, installation interval, and installation service quality. Qwest's excellent performance on analog loops therefore takes into account hot cut loops as well as new loops. *Id.* at ¶ 76.

In addition, Qwest tracks the time it takes to complete the hot cut "lift and lay" procedure (i.e., moving a customer's line from a Qwest switch to a CLEC switch). This represents the time a customer is actually out of service during the cut. Between February and May, Qwest averaged between two and four minutes to perform the lift and lay procedure for analog hot cuts. *Id.* at ¶ 89.

Qwest also measures the on-time completion rate for coordinated installations of unbundled loops, the vast majority of which (approximately 90%) are conversions of existing customers to CLEC service. Under this measure, between February and May Qwest performed 100% of coordinated installations on time for both analog and non-analog loops. This performance surpassed the negotiated performance benchmark in each month. In short, Qwest is performing hot cuts in a timely and nondiscriminatory fashion in Montana. *Id.* at ¶ 90.

Analog Loops – Maintenance and Repair. Qwest's performance with respect to maintenance and repair of analog loops in Montana has been outstanding. Between February and May, Qwest did not record a single performance disparity under any repair measure. Of particular note was the trouble rate, which was never higher than 0.50% during that time. Under this and every other repair measure for analog loops, Qwest's performance was perfect. *Id.* at ¶ 91.

xDSL-Capable Loops – Installation and Repair. In this category of loops, which is measured by the same performance metrics described in the analog loop performance section above, Qwest's performance from February through May was perfect: For all types of xDSL-capable loops, Qwest did not record a single disparity between retail and wholesale performance in any month for either installation or repair. Of particular note is the repair trouble rate: for 2-wire non-loaded loops, by far the most common type of xDSL-capable loop in Montana, the trouble rate was never higher than 1.10%. *Id.* at ¶ 92.

Conditioned Loops. Qwest measures installation commitments met and installation intervals separately for conditioned loops, and between February and May, Qwest's performance with respect to conditioned loops was very good. Qwest met the negotiated performance benchmark for installation interval in all four months. For installation commitments met, Qwest met the 90% benchmark in three of four months, and met four of five installation commitments in the fourth month. *Id.* at ¶ 93.

High-Capacity Loops – Installation and Repair. High-capacity loops represent only a tiny fraction of the loops Qwest has in service for CLECs in Montana: only 36 of 2,772 loops, or about 1.3 %, are high-capacity loops. Between February and May, the percentage of CLEC installation commitments met for high-capacity loops was at parity with retail service in each month. Additionally, the average installation interval for analog loops during that period met the parity standard in three of four months. As for new service installation quality, Qwest's performance with respect to CLEC orders was at parity with its retail performance in all four months. In short, Qwest achieved parity in all four months under every single installation performance measure for high-capacity loops. Installation performance in Washington, where

high-capacity loop volumes are substantially higher, further corroborate Qwest's ability to provision high-capacity loops at parity with its retail service. *Id.* at ¶ 94.

High-Capacity Loops – Maintenance and Repair. Qwest's performance with respect to maintenance and repair of high-capacity loops in Montana has been outstanding: between February and May, Qwest did not record a single performance disparity under any repair measure. *Id.* at ¶ 95.

(2) Utah Performance

As of April 30, 2002, Qwest had in service 22,978 unbundled stand-alone loops for 10 CLECs in Utah. Specifically, Qwest had in service 19,679 unbundled voice-grade analog loops, 3,132 xDSL-capable loops, and 167 high-capacity loops. Qwest's performance in provisioning and repairing these loops is described in the following paragraphs. *Id.* at ¶ 96.

Analog Loops – Installation. Most of the loops Qwest provisions to CLECs in Utah (approximately 85%) are analog loops, and Qwest consistently provisions them in a timely and nondiscriminatory fashion. Between February and May, Qwest surpassed the negotiated 90% performance benchmark for installation commitments met in every month, with more than 98% of installations completed on time. During the same period, the average installation interval for analog loops ordered by CLECs was below the negotiated benchmark in every month. Under the measure for installation service quality, Qwest achieved parity between retail and wholesale performance in every month. *Id.* at ¶ 97.

In short, under the performance measurements that the Commission has relied on in its analysis of loop performance in prior 271 applications, Qwest did not record a single performance disparity for analog loop installation. Qwest's only performance disparity for analog loop installation between February and May was under the PID that measures delayed

days for non-facility reasons, where Qwest still achieved parity in three of four months. *Id.* at ¶ 98.

Hot Cuts. As noted under the Montana performance discussion, most loops Qwest provisions via hot cut are analog loops. Loops provisioned via hot cut are included in the performance measures discussed in the preceding paragraph for installation commitments met, installation interval, and installation service quality. Qwest's excellent performance on analog loops therefore takes into account hot cut loops as well as new loops. In addition, between February and May, Qwest averaged between two and four minutes to perform the lift and lay procedure for analog hot cuts. *Id.* at ¶ 99.

Qwest also measures the on-time completion rate for coordinated installations of unbundled loops, the vast majority of which (approximately 90%) are conversions of existing customers to CLEC service. Under this measure, between February and May Qwest performed more than 99% of coordinated installations on time for analog loops, surpassing the negotiated benchmark in every month, and approximately 97% on time for other loops meeting the benchmark in every month. *Id.* at ¶ 100.

Analog Loops – Maintenance and Repair. Qwest's performance with respect to maintenance and repair of analog loops has been outstanding. Between February and May, Qwest did not record a single performance disparity under any repair measure. Of particular note was the trouble rate, which was never higher than 1.23% during that time. Under this and every other repair measure for analog loops, Qwest's performance was perfect. *Id.* at ¶ 101.

xDSL-Capable Loops – Installation. Most of the xDSL-capable loops ordered by CLECs in Utah (approximately two-thirds) are 2-wire non-loaded loops. In this category of loops, which is measured by the same installation performance metrics described in the analog

loop performance section above, Qwest's performance from February through May was perfect under all of the installation PIDs. Qwest's performance for other xDSL-capable loops, for which CLEC volumes were lower, was nearly as good: Qwest recorded only two disparities between retail and wholesale performance under the installation measures, missing parity in two months under the PID for new service installation quality for ISDN-capable loops. Even there, Qwest's performance improved steadily between March and May, and apart from that, Qwest achieved parity on every installation performance measure between February and May for xDSL-capable loops. *Id.* at ¶ 102.

Conditioned Loops. Qwest measures installation commitments met and installation intervals separately for conditioned loops. Under the PID for average installation interval, Qwest met the negotiated performance benchmark in every month; for installation commitments met, Qwest met the benchmark in three of four months, missing only in February. *Id.* at ¶ 103.

xDSL-Capable Loops – Maintenance and Repair. Qwest's maintenance and repair of xDSL-capable loops was also strong. In the largest category of xDSL loops – 2-wire non-loaded loops – Qwest achieved parity in every month under the PIDs that measure trouble rate, repair repeat report rate, out of service cleared within 24 hours, and all troubles cleared within 48 hours. In short, under all of the PIDs that measure repair performance for the most common type of xDSL-capable loop, Qwest recorded no performance disparities between February and May. *Id.* at ¶ 104.

As for other xDSL-capable loops (4-wire non-loaded, ISDN-capable, and xDSL-1-capable), Qwest's performance was nearly as good. Qwest achieved parity in all four months under the PIDs that measure out of service clearance, trouble clearance, and mean time to

restore, and in three of four months under the repair repeat report rate measure. The only significant performance disparity Qwest recorded was under the trouble rate for ISDN-capable loops, where Qwest missed the parity standard in two months. However, the actual CLEC trouble rate was nonetheless very low – never higher than 1.84% in any month. Furthermore, these disparities should be considered in light of Qwest’s overall performance for maintenance and repair of xDSL-capable loops: across all categories of these loops, Qwest achieved parity in all but four instances. *Id.* at ¶ 105.

High-Capacity Loops – Installation and Repair. High-capacity loops represent only a small percentage of the loops Qwest has in service for CLECs in Utah: only 167 of 22,978 loops are high-capacity loops. Qwest’s performance in provisioning these loops has been strong: between February and May, the only installation performance disparity Qwest recorded was under the installation quality measure for DS1 loops, where Qwest still achieved parity in three of four months. Apart from that one disparity, Qwest did not record a single performance disparity under any installation measure for high-capacity loops. *Id.* at ¶ 106.

Qwest’s maintenance and repair performance has been nearly as good. Between February and May, Qwest achieved parity in every month under the PIDs that measure mean time to restore and repair repeat report rate, and in three of four months under the all troubles cleared within four hours measure. Qwest’s only significant performance disparity was under the trouble rate measure, where Qwest achieved parity only in May. However, Qwest’s performance has improved steadily, and the actual CLEC trouble rate has also improved, from 5.13% in February to 3.54% in May, with no more than eight CLEC trouble tickets in any month. *Id.* at ¶ 107.

(3) Washington Performance

As of April 30, 2002, Qwest had in service 55,307 unbundled stand-alone loops for 17 CLECs in Washington. Specifically, Qwest had in service 41,779 unbundled voice-grade analog loops, 11,023 xDSL-capable loops, and 2,505 high-capacity loops. *Id.* at ¶ 74. Qwest's performance in provisioning and repairing these loops has been outstanding and is described in the following paragraphs.

Analog Loops – Installation. A large majority of the loops Qwest provisions to CLECs in Washington are analog loops, and Qwest consistently provisions them in a timely and nondiscriminatory fashion. Between February and May, Qwest met more than 98% of its installation commitments to CLECs and surpassed the negotiated performance benchmark for installation commitments met in every month. During the same period, the average installation interval for analog loops ordered by CLECs was below the negotiated 6-day benchmark in every month. In addition to being prompt, Qwest's installation of analog loops for CLECs is of consistently high quality: the trouble-free rate for analog loop installations exceeded Qwest's analogous retail service performance in each month. In short, under the performance measurements the FCC has relied on in its analysis of loop performance in prior 271 applications, Qwest did not record a single performance disparity for analog loop installation in Washington. *Id.* at ¶ 75.

Hot Cuts. As noted under the Montana performance discussion, most loops Qwest provisions via hot cut are analog loops. Loops provisioned via hot cut are included in the performance measures discussed in the preceding paragraph for installation commitments met, installation interval, and installation service quality. Qwest's excellent performance on analog loops therefore takes into account hot cut loops as well as new loops. In addition, between February and May, Qwest averaged three minutes for an analog hot cut loop. *Id.* at ¶ 77.

Qwest also measures the on-time completion rate for coordinated installations of unbundled loops, the vast majority of which (approximately 90%) are conversions of existing customers to CLEC service. Under this measure, between February and May Qwest performed more than 99% of coordinated installations on time for analog loops, and nearly 99% on time for all other loops, surpassing the negotiated performance benchmark of 95% in each month. In short, the PIDs approved by the TAG to measure loop performance demonstrate that Qwest is performing hot cuts in a timely and nondiscriminatory fashion. *Id.* at ¶ 78.

Analog Loops – Maintenance and Repair. Qwest's performance with respect to maintenance and repair of analog loops has been outstanding. Between February and May, Qwest did not record a single performance disparity under any repair measure. *Id.* at ¶ 80.

xDSL-Capable Loops. The majority (approximately 60%) of xDSL-capable loops ordered by CLECs in Washington are 2-wire non-loaded loops. In that category of loops, which are measured by the same performance metrics described in the analog loop performance section above, Qwest's performance from February through May was perfect. Qwest did not record a single disparity between retail and wholesale performance in any month for either installation or repair. *Id.* at ¶ 81.

Qwest's performance for other xDSL-capable loops, for which CLEC volumes were lower, was nearly as good. For ISDN-capable loops, the next-largest category of xDSL-capable loops, Qwest achieved the performance standard in all four months under almost every PID. The only exceptions were the installation and repair trouble rate PIDs, OP-5 and MR-8, under which Qwest recorded disparities in two of four months. With respect to OP-5, the March and April results are anomalies, as the only two months in the last 12 months that were not at parity. In fact, only one month in the last 12 had a new installation quality result below 93.5%.

The anomaly coincides with a repair process improvement that changed Qwest's RCMAC involvement in misrouted orders. The "learning curve" associated with this change appears to have affected OP-5 results in March and April. May results are back in parity. As for the repair trouble rate, the performance disparities are mitigated by the CLEC trouble rate itself, which was never higher than 1.38% between February and May.. *Id.* at ¶ 82.

In the remaining xDSL-capable loop categories, Qwest's only performance disparities were under the installation interval measure for ADSL-capable loops, where Qwest nonetheless achieved parity in three of four months, and under the installation service quality measure for ADSL-capable loops, where Qwest achieved parity in two of four months. Qwest recorded no other disparities for xDSL-capable loops for either installation or repair. *Id.* at ¶ 83.

Conditioned Loops. Qwest measures installation commitments met and installation intervals separately for conditioned loops, and between February and May, Qwest's performance with respect to conditioned loops was excellent: Under both measures, Qwest achieved the negotiated performance benchmark in all four months. *Id.* at ¶ 84.

High-Capacity Loops – Installation. High-capacity loops represent approximately 4.5% of all CLEC loops in service in Washington. Between February and May, the percentage of CLEC installation commitments met for high-capacity loops was at parity with retail service in each month. Additionally, the average installation interval for analog loops during that period met the parity standard in every month. As for new service installation quality, Qwest's performance with respect to CLEC orders was at parity with its retail performance in all four months. In short, Qwest achieved parity in all four months under every single installation performance measure for high-capacity loops. *Id.* at ¶ 85.

High-Capacity Loops – Maintenance and Repair. Qwest's rate of clearing CLEC trouble reports within four hours was at parity with its retail performance in three of four months, and the repair repeat report rate was at parity in all four months. Under the measure for mean time to restore, Qwest missed the parity standard in three of four months. Nevertheless, the four-month average time to restore was 3.7 hours, which is within the four-hour target for such services. As for trouble rate, Qwest missed the parity standard in two months. A contributing factor to the higher-than-expected trouble rate is the number of "no trouble found," or NTF, trouble reports Qwest receives from CLECs. On a percentage basis, Qwest receives nearly two times as many NTF tickets from CLECs for this product than for its retail comparative. Qwest developed the MR-8* PID to track this trend. MR-8* calculates the trouble rate by excluding all trouble reports that were originally coded to NTF because no trouble was found and which after the first report was closed, received no other trouble report within 30 days of the original report. Overall, trouble rates are 2.1% or less in February to May 2002, and, when NTF are excluded, are less than 1.7%. Finally, in recent months, Qwest undertook a continuous improvement effort to reduce trouble rates. The multi-faceted program includes additional training, quality checks, field audits and outside plant rehabilitation. *Id.* at ¶ 86.

(4) Wyoming Performance

As of April 30, 2002, Qwest had in service 349 unbundled stand-alone loops for two CLECs in Wyoming. Specifically, Qwest had in service 5 unbundled voice-grade analog loops, 343 xDSL-capable loops, and one high-capacity loop. Because CLECs have ordered so few loops in Wyoming, it is difficult to draw broad conclusions from Qwest's performance in provisioning and repairing them. Nevertheless, Qwest's performance in Wyoming has been good and is described in the paragraphs below. *Id.* at ¶ 108.

Analog Loops – Installation and Repair. Qwest provisioned only one analog loop in Wyoming between February and May and achieved the performance benchmark on all of the applicable installation measures. As for repair, Qwest achieved parity with respect to trouble rate in three of four months; in the fourth month, CLECs reported troubles on two of five loops in service. Qwest did not record any performance disparities under any other repair measure in Wyoming. *Id.* at ¶ 109.

xDSL-Capable Loops – Installation and Repair. Qwest did not record a single performance disparity under the installation measures for xDSL-capable loops between February and May. As for repair, Qwest recorded a disparity in one month for 2-wire non-loaded loops under the PID that measures mean time to restore. Apart from that one disparity, Qwest's performance with respect to maintenance and repair of xDSL-capable loops was perfect. *Id.* at ¶ 110.

Conditioned Loops. Under the separate measures for installation of conditioned loops, Qwest's performance was also good. Qwest met the installation interval benchmark in all four months. Qwest met the benchmark for installation commitments met only in May. However, because CLEC volumes are so low (only nine installations over four months), Qwest must meet every single installation commitment in order to meet the 90% benchmark. Furthermore, Qwest's performance under this measure improved steadily between February and May. *Id.* at ¶ 111.

High-Capacity Loops – Installation and Repair. Between February and May, Qwest achieved the performance standard under every PID for high-capacity loops in Wyoming, both for installation and for repair. *Id.* at ¶ 112.

In summary, Qwest's performance in each of the states included in this Application demonstrates that it is installing and repairing unbundled loops for CLECs in a nondiscriminatory manner.

b) Subloops

Qwest provides nondiscriminatory access to the subloop network element, defined by Commission rules as "any portion of the loop that is technically feasible to access at terminals in the [ILEC's] outside plant, including inside wire." 47 C.F.R. § 51.319(a)(2). An accessible terminal is "any point on the loop where technicians can access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within." *Id.* Such points "may include, but are not limited to, the pole or pedestal, the network interface device, the minimum point of entry, the single point of interconnection, the main distribution frame, the remote terminal, and the feeder/distribution interface." *Id.*

For subloop unbundling purposes, Qwest divides accessible terminals into two categories. "MTE terminals" are those within a building in a multiple tenant environment ("MTE") or accessible terminals physically attached to a building in an MTE. "Detached terminals" are all other accessible terminals. *See Declaration of Karen A. Stewart, Unbundled Network Interface Devices and Subloops ("Stewart NID/Subloop Decl."), Att. 5, App. A, at ¶ 31.* Different terms and conditions apply for MTE terminals than for detached terminals; all terms and conditions are in accordance with the Commission's requirements for subloop unbundling.

Qwest has received no orders for subloops from CLECs in the states included in this Application. Regionwide, Qwest has 57 subloops in service for CLECs as of April 30, 2002. Because of the low subloop volumes, it is difficult to draw broad conclusions from Qwest's subloop performance. However, Qwest's regional performance with respect to the few orders it has received from CLECs has been excellent. Between February and May 2002, Qwest met

100% of its subloop installation commitments in three of four months. In the fourth month, Qwest missed only one installation commitment out of five orders. As for installation intervals, in three out of four months the average subloop interval was five days or less. Finally, Qwest achieved a trouble rate of 0.0% for installations in all four months. Beyond Qwest's commercial subloop performance, the ordering and provisioning processes outlined in Qwest's SGAT ensure nondiscriminatory treatment should CLECs begin to request unbundled subloops in significant numbers. *Id.* at ¶ 54.

c) Network Interface Devices (NIDs)

Qwest provides nondiscriminatory access to the NID, defined by the FCC as “any means of interconnection of end-user customer premises wiring to an ILEC's distribution plant, such as a cross connect device used for that purpose.” 47 C.F.R. § 51.319(b). Qwest allows requesting CLECs to connect their own loop facilities to on-premises wiring through Qwest's NID or at any other technically feasible point. Stewart NID/Subloop Decl. at ¶¶ 10-12.

Through its SGAT and state-approved interconnection agreements, Qwest has undertaken a contractual obligation to provide unbundled NID access to CLECs. Qwest has received no orders for stand-alone unbundled NIDs in any state in its region. Qwest has provisioned NIDs only in conjunction with unbundled loops and subloops. Given the lack of demand, the ROC has not created any performance reporting requirements for NIDs. However, should CLECs request stand-alone NIDs at any time in the future, Qwest is prepared to provision them. *Id.* at ¶ 21.

d) Line Sharing and Line Splitting

Qwest provides CLECs with access to the high frequency portion of the unbundled loop (“HFPL”), commonly known as line sharing, in accordance with Commission

regulations. ^{39/} See generally Stewart Line Sharing Decl., Att. 5, App. A.; 47 C.F.R. § 51.319(h)(1)-(4); *Georgia/Louisiana 271 Order* at App. D ¶¶ 50-52; *Line Sharing Order*, 14 FCC Rcd 20912; *Line Sharing Reconsideration Order*, 16 FCC Rcd 2101. In a line sharing arrangement, the POTS service is provided by Qwest while the data service is provided by the CLEC. Pursuant to its SGAT as well as negotiated, state-approved interconnection agreements with CLECs in the application states, Qwest makes available to CLECs line sharing, line splitting, and loop splitting (similar to line splitting, in cases where the CLEC purchases unbundled loops rather than UNE-P). Stewart Line Sharing Decl. at ¶¶ 57-70; see also SGAT §§ 9.4 (line sharing), 9.21 (line splitting), 9.24 (loop splitting). Qwest provides line sharing in a timely and nondiscriminatory manner and in a manner that provides CLECs with a meaningful opportunity to compete.

As noted above, as part of its public interest analysis the MPSC has required Qwest to provide its retail DSL service, Qwest DSL, when an end-user opts to have a CLEC provide voice service via a stand-alone unbundled loop. *Montana Commission Final Report on Public Interest* at 49-50. Qwest will provide Qwest DSL for a CLEC to resell to its end-user when the CLEC utilizes UNE-P or a compatible resold local exchange line. Stewart Line Sharing Decl. ¶ 72. But it is well established that Section 271 does not require a BOC to provide xDSL service when the BOC is not the provider of voice service. See, e.g., *Texas 271 Order*, 15 FCC Rcd at 18517-18 ¶ 330; see also *Line Sharing Reconsideration Order*, 16 FCC Rcd at 2109-

^{39/} On May 24, 2002, the Court of Appeals for the District of Columbia Circuit vacated the FCC's Order and Rules creating the line sharing obligation. *United States Telecom Ass'n v. FCC*, 290 F.3d 415 (2002). Qwest currently is reviewing its rights and obligations regarding this matter. Any changes to Qwest's policies and practices subsequent to the issuance of the Court's mandate will be governed by applicable law and the Commission's rules then in effect, as well as the "change in law" provisions of its interconnection agreements.

10, 2114 ¶¶ 16, 26. 40/ The creation of such an offering would require Qwest to modify all of the 29 systems it uses to order, provision, and repair Qwest DSL, which would be a difficult and expensive undertaking. Qwest notes, in any event, that it has not experienced any demand for loop splitting and therefore believes the MPSC's directive is based on assumptions regarding a theoretical situation that is unlikely to occur. Stewart Line Sharing Decl. at ¶¶ 72-76.

Qwest is able to meet CLECs' demand for line sharing in commercial volumes. As of April 30, 2002, Qwest had 16,673 unbundled shared loops in service across its 14-state region. This figure includes 291 shared loops for two CLECs in Montana, 1,424 shared loops for three CLECs in Utah, 4,737 shared loops for three CLECs in Washington, and 59 shared loops for one CLEC in Wyoming. Stewart Line Sharing Decl. at ¶ 42. Qwest's commercial performance with respect to line sharing between February and May 2002 is discussed in the following sections.

(1) Montana Performance

There were very few CLEC orders for line sharing in Montana between February and May. Qwest achieved the performance benchmark on every measure under which CLEC activity was recorded, for both installation and repair. Of particular note are the trouble rates for installation, which was 0.0% in every month during that time, and for maintenance and repair, which was never higher than 0.38%. *Id.* at ¶ 49.

40/ Such an offering not only is beyond the requirements of the competitive checklist, it also is not an appropriate requirement for a state to impose in connection with its public interest analysis under Section 271. This Commission has acknowledged the express directive of Congress that, in conducting its public interest analysis under Section 271(D)(3)(C), the FCC does not have discretion or authority to "limit or extend the terms of the competitive checklist of section 271(c)(2)(B)." *New Jersey 271 Order* at ¶ 166; *see also* 47 U.S.C. § 271(d)(4) ("[t]he Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist set forth in subsection (c)(2)(B)"). The MPSC's stand-alone DSL condition is precisely such an attempt to extend the terms of the competitive checklist under the public interest rubric and therefore is not appropriate for consideration in evaluating this application.

(2) Utah Performance

In Utah, Qwest's performance in provisioning and repairing shared loops has been outstanding. Between February and May, Qwest surpassed the negotiated 95% benchmark for installation commitments met in every month. Qwest also met the negotiated 3.3-day benchmark for average installation interval in all four months. Qwest met the parity standard for installation service quality in all four months as well. In short, Qwest's line sharing installation performance in Utah was perfect between February and May. *Id.* at ¶ 50.

Maintenance and Repair. Qwest's performance with respect to maintenance and repair of shared loops is also impressive. Between February and May, Qwest achieved the performance standard for trouble rate and repair repeat report rate in all four months. Qwest also met the performance standard for out-of-service cleared within 24 hours in three of four months for non-dispatch orders and in all four months for orders requiring a dispatch. Only under the measurements for all troubles cleared within 48 hours and mean time to restore did Qwest record multiple disparities. But all of the disparities occurred in the dispatch category. In the non-dispatch category, where CLEC volumes are higher, Qwest recorded no disparities under these measures. *Id.* at ¶ 51.

(3) Washington Performance

Installation. Qwest's commercial performance in Washington demonstrates that it is provisioning line sharing in a nondiscriminatory manner. Line sharing is generally provisioned without the dispatch of a technician. In that "non-dispatch" category, Qwest's record is outstanding. Between February and May, Qwest met more than 99.64% of its CLEC installation commitments, exceeding the negotiated 95% performance benchmark for installation commitments in all four months. Qwest also met the 3.3-day benchmark for average installation interval in all four months. Qwest met the parity standard for new installation quality in all four

months as well. In short, for each performance measurement with a performance objective, Qwest's line sharing installation performance in Washington was perfect between February and May. *Id.* at ¶ 45.

Maintenance and Repair. Qwest's repair record for line sharing in Washington includes some missed PIDs, but a close review of the data shows that this performance is also impressive. Between February and May, Qwest achieved the performance standard in all four months under the measurements for out of service cleared within 24 hours, repair repeat report rate, and trouble rate. Qwest also met the standard under the PID that measures all troubles cleared within 48 hours, Qwest achieved parity in three of four months for both dispatch and non-dispatch orders. *Id.* at ¶ 46.

Under the mean time to restore measure, Qwest recorded disparities in two of four months in both the dispatch and non-dispatch categories. However, it is important to note that Qwest still cleared CLEC troubles in an average of less than 12 hours between February and May. This is better than the 24-hour objective to clear out of service troubles. *Id.* at ¶ 47.

Furthermore, this higher percentage of service affecting troubles for line sharing is compounded by the fact that one prominent DLEC requests "future" repair work approximately 10% of the time. In other words, this DLEC will contact Qwest and ask Qwest to repair a problem at some designated time in the future, but not immediately. Currently, all of this waiting time is included in the mean time to restore (MR-6) and restoration intervals (MR-3 and MR-4), thereby creating the incorrect appearance that all of this repair time was attributable to Qwest. Qwest is analyzing whether it has the ability to exclude the time associated with the

requested delay as “no access” time that is excluded from the performance data. For example, in April, this delay time increased the mean time to restore by about 13%. 41/

(4) Wyoming Performance

There were very few CLEC orders for line sharing in Wyoming between February and May. Qwest achieved the performance benchmark on every measure under which CLEC activity was recorded, for both installation and repair. Of particular note are the trouble rates for installation and repair, both of which were 0.0% in all four months. *Id.* at ¶ 52.

5. Checklist Item 5: Unbundled Local Transport and Dark Fiber

Qwest is complying with its obligation to offer “[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.” 47 U.S.C. § 271(c)(2)(B)(v). Qwest provides this service for dedicated transport, shared transport and dark fiber transport. Qwest has concrete and specific legal obligations pursuant to Sections 9.6, 9.8, 9.9 and 9.12 of its SGAT to provide CLECs with unbundled dedicated transport on a nondiscriminatory basis.

a) Dedicated Transport

Dedicated transport refers to “ILEC transmission facilities dedicated to a particular customer or carrier that provide telecommunications between wire centers owned by ILECs or requesting telecommunications carriers, or between switches owned by ILECs or requesting telecommunications carriers.” *Local Competition First Report and Order* ¶ 440. Qwest’s dedicated transport offerings provide CLECs with a single transmission path between Qwest end offices, serving wire centers, or tandem switches in the same LATA and state; they also include a bandwidth-specific transmission path between the Qwest serving wire center and

41/ *Id.* at ¶ 48. Paragraph 48 of the Stewart Line Sharing Declaration inadvertently expresses the resulting increase in mean time to restore as “24%.” The correct figure is 13%.

the CLEC's wire center or an interexchange carrier's point of presence located within the same Qwest serving wire center area. Declaration of Karen A. Stewart, Unbundled Local Transport ("Stewart Transport Declaration"), Att. 5, App. A, at 6. Qwest offers dedicated transport in DS0 through OC-192 bandwidths, as well as such higher capacities as evolve over time. *Id.* at 6-7.

If a CLEC orders a UNE combination that includes dedicated transport facilities, Qwest will perform requested and necessary cross connections between UNEs in the same manner that it would perform such cross connections for its own end user customers. *Id.* at 8. When transport is ordered separately (*i.e.*, not as part of a UNE combination), the CLEC is responsible for performing cross connections at its collocation or other mutually determined demarcation point, but such cross connections are not required when a CLEC orders a continuous dedicated transport element from one point to another. *Id.* To the extent that collocation is required for a CLEC to take advantage of dedicated transport facilities, the CLEC may utilize any form of collocation. *Id.*

(1) Qwest Is Providing Commercial Volumes at an Acceptable Level of Quality

Qwest's commercial volumes and performance demonstrate that Qwest is providing dedicated transport to CLECs in Montana, Utah, Washington and Wyoming in a nondiscriminatory manner. As of April 30, 2002, Qwest had in service five DS1 transport facilities and no DS3 transport facilities for one CLEC in Montana; 110 DS1 transport facilities and 72 DS3 transport facilities for six CLECs in Utah; 182 DS1 transport facilities and 141 DS3 transport facilities for 14 CLECs in Washington; and seven DS1 transport facilities and one DS3 transport facility for two CLECs in Wyoming. Stewart Transport Decl. at 13-18.

(2) Qwest's Commercial Performance is Excellent

Installation Performance. Qwest is provisioning unbundled local transport to CLECs in a nondiscriminatory manner. From February through May 2002, where there are data to report, under the primary performance measurements for DS1 and DS3 installation – commitments met, intervals and quality – Qwest achieved parity under every PID with very rare exceptions. *Id.* at 14-18. In fact, in the exceptional instances where Qwest experienced a miss, the miss was either the result of extremely low volume skewing the results, or despite the miss, the four-month average score for CLECs was better than the score for Qwest itself. *Id.*

Maintenance and Repair Performance. Under each of the primary performance measurements for DS1 and DS3 maintenance and repair – trouble clearance, mean time to restore service, repair repeat report rate, and trouble rate – Qwest typically achieved parity between retail and wholesale performance in all four months. *Id.* In instances where Qwest posted a miss, the difference in the four-month average scores between wholesale and retail performance was not competitively significant. *Id.* Thus, Qwest is providing nondiscriminatory unbundled local transport to CLECs.

b) Shared Transport

Shared transport consists of transmission facilities shared by more than one carrier, including Qwest, between end office switches, between end office switches and tandem switches, and between tandem switches in Qwest's network. *Id.* at 18. Qwest provides shared transport transmission facilities between end office switches, between end office and tandem switches, and between tandem switches in its network, as required by the Commission. *Id.* at 18. Qwest provides shared transport in a way that enables the traffic of a CLEC to be carried on the same transport facilities that Qwest uses for its own traffic. *Id.* at 18-19.

ILECs are required to provide unbundled shared transport only where they also provide unbundled switching (as this Commission has noted, it is not technically feasible for a competitor to use shared transport with self-provisioned switching). *Id.* In compliance with this requirement, Qwest offers unbundled shared transport in conjunction with unbundled local switch ports and as part of combinations such as its UNE-P offering. *Id.* Shared transport is automatically provisioned when a CLEC orders switching unless the CLEC requests otherwise. *Id.*

Qwest has demonstrated its ability to provide shared transport through its success in provisioning UNE-P, a standard UNE combination that consists of an unbundled loop, shared transport and unbundled switching. *Id.* at 21.

c) Dark Fiber Transport

The FCC has identified dark fiber as a network element that must be unbundled in both the loop plant and interoffice facilities. *UNE Remand Order* ¶ 326. The FCC's unbundling requirements went into effect for dark fiber on May 17, 2000. 47 C.F.R. § 51.319(d). Following the release of the *UNE Remand Order*, Qwest modified its SGAT to include a legally binding obligation to provide unbundled access to deployed dark fiber. Declaration of Karen A. Stewart, Dark Fiber ("Stewart Dark Fiber Decl."), Att. 5, App. A, at 5. Qwest's dark fiber offerings include interoffice, loop and subloop dark fiber, in accordance with FCC requirements. *Id.*

Qwest provides unbundled dark fiber of the same quality as the fiber facilities that Qwest uses to provide service to its own end user customers. *See* SGAT § 9.7.2.1. Qwest reserves a nominal quantity (not more than five percent of the fibers in a sheath or two strands, whichever is greater) of fibers in a cable to maintain network survivability and reliability. Stewart Dark Fiber Decl. at 6. CLECs may obtain up to 25% of available dark fibers or four dark fiber strands, whichever is greater, in each fiber cable segment over a twelve-month period.

Id. Qwest does not reserve fiber for unknown and unspecified future growth; it retains for its own use only fiber that has been specifically earmarked to serve customer needs in the near future. *Id.*

Since January 2001, Qwest has received seven Initial Records Inquiries (“IRIs”) in Montana, 11 in Utah, 29 in Washington, and none in Wyoming. *Id.* at 19. As of April 30, 2002, 22 dark fiber loops were in service in Washington, and none in Montana, Utah or Wyoming. *Id.* As of the same date, 41 dark fiber transport facilities were in service in Washington, 12 in Utah and none in Montana or Wyoming. *Id.* In general, Qwest has received so few provisioning requests for unbundled dark fiber in Montana, Utah, Washington and Wyoming, and throughout its entire fourteen-state region, that meaningful evaluation of the data is difficult. *Id.* at 17. In fact, on January 17, 2002, the TAG determined that testing relating to certain dark fiber provisioning processes (Exception 3010) should be suspended due to low commercial volumes. *Id.* at 17-18 Testing was subsequently suspended and Exception 3010 was closed as “Unable to Determine”. *Id.* at 18. However, through the Third Party Test, Qwest's responses to CLECs' dark fiber inquiries and provisioning requests have been analyzed and thoroughly refined, completely satisfying the relevant dark fiber evaluation criteria. *Id.*

Qwest's ordering and provisioning process will ensure nondiscriminatory treatment once CLECs begin to request unbundled dark fiber in significant numbers. *Id.* at 18-20. The Commission has not analyzed dark fiber performance in any of its Section 271 orders. However, the nondiscriminatory ordering and provisioning processes outlined in this Application establish that Qwest meets its dark fiber obligations.

6. Checklist Item 6: Unbundled Local Switching

Qwest satisfies the requirements of Section 271(c)(2)(B)(vi) of the Act concerning unbundled local switching. Qwest provides local circuit switching unbundled from

transport, local loops and other services. ^{42/} As required by the Commission, Qwest provides access to line-side and trunk-side facilities, basic switching functions, vertical features and customized routing. *New York 271 Order* at 4127-29 ¶¶ 343, 346 and *Kansas/Oklahoma 271 Order* at 6361 ¶ 242; Declaration of Lori A. Simpson and Karen A. Stewart, Unbundled Switching and Packet Switching (“Simpson/Stewart Switching Decl.”) at ¶¶ 12-14. Qwest also provides access to local tandem switching facilities and packet switching in a non-discriminatory manner, as required by the Act and the Commission’s rules. 47 C.F.R. § 51.319(c)(3); Simpson/Stewart Switching Decl. at ¶¶ 12-14, 48-53.

Qwest has a binding legal obligation to provide unbundled local circuit and local tandem switching to CLECs through its SGAT and through state-approved interconnection agreements. SGAT §§ 9.10 & 9.11; Simpson/Stewart Switching Decl. at ¶ 4. Qwest also has a contractual obligation to provide unbundled packet switching to CLECs in certain circumstances through its SGAT and state-approved interconnection agreements. SGAT § 9.20; Simpson/Stewart Switching Decl. at ¶ 48. Unbundled packet switching includes transport facilities, ATM electronics, and the Digital Subscriber Line Access Multiplexer (“DSLAM”) functionality with the routing and addressing functions of the packet switch necessary to generate the virtual channel. Packet switching may also include use of a shared, line-split or distribution subloop.

^{42/} 47 U.S.C. §§ 251(c)(3) and 51.31(c)(1); Declaration of Lori A. Simpson and Karen A. Stewart, Unbundled Switching and Packet Switching (“Simpson/Stewart Switching Decl.”), Att. 5, App. A, at ¶ 12. The one exception to Qwest’s provision of unbundled local switching, in accordance with Commission rules, occurs in those instances when the requesting CLEC serves an end user customer with four or more voice grade lines or equivalents, provided that the incumbent LEC provides nondiscriminatory access to EELs in the top 50 metropolitan statistical areas in the country (known as the switching “carve-out”). *Id.* at ¶¶ 19-20.

Qwest offers unbundled local switching in combination with other UNEs or on a stand-alone basis. SGAT §§ 9.23 and 9.11; Simpson/Stewart Switching Decl. at ¶ 19. At this time there are no orders for switching as a stand-alone product. However, Qwest does successfully and promptly install and repair unbundled local switching as part of UNE-P for CLECs in commercial volumes. Simpson/Stewart Switching Decl. at ¶¶ 22-23. Qwest's UNE-P performance is discussed in this brief under Checklist Item 2, Section III(B)(2), above.

All the features, functions and capabilities of Qwest's switches are available to CLECs that purchase unbundled local switching, including access to all vertical switch features that are loaded in a Qwest switch. SGAT § 9.11.2.1; Simpson/Stewart Switching Decl. at ¶ 29. Even though not required to do so by this Commission, Qwest allows CLECs to request features that are not currently resident in the switch, 43/ and to purchase features in any technically feasible combination. *Louisiana II 271 Order* at 29728 ¶ 219; Simpson/Stewart Switching Decl. at ¶ 29.

Packet Switching. Qwest offers CLECs unbundled packet switching in a nondiscriminatory manner when the four conditions established by the Commission are met in a specific geographic area. SGAT § 9.20.2.1; Simpson/Stewart Switching Decl. at ¶¶ 43, 46. Unbundled packet switching provides the functionality of delivering and routing packet data units *via* a virtual channel to a CLEC demarcation point.

To date, no CLECs have ordered packet switching from Qwest. Qwest has developed methods and procedures for providing stand-alone unbundled local switching and is prepared to provision it upon request in a manner that allows CLECs a meaningful opportunity to compete. Simpson/Stewart Switching Decl. at ¶¶ 58-59.